

REGULAR NORWALK PLANNING AND ZONING MEETING 8-10-15

Call to order

The Regular Meeting of the Norwalk Planning and Zoning Commission was held at the Norwalk City Hall, 705 North Avenue, Monday, August 10, 2015. The meeting was called to order at 5:47 P.M. by Chairperson Stephanie Riva. Those present at roll call were John Fraser, Jim Huse, Dan Schulz, Judy McConnell, Chad Ross, Stephanie Riva. Absent: Robin Wagner.

Staff present included: Wade Wagoner, Planning and Economic Development Director; Shelley Stravers, Development Services Assistant; Jim Dougherty, City Attorney; Kyle Jackson, City Council Liaison; Greg Staples, Police Chief.

Approval of Agenda – 15-49

Motion by Fraser and seconded by Huse to approve the agenda as presented.
Approved 6-0.

Approval of Minutes – 15-50

Motion by Huse and seconded by Schulz to approve the minutes from the July 27, 2015 meeting. Approved 6-0.

Welcome of Guests

Chairperson Riva welcomed guests present. With no guests wishing to speak, the business portion of the meeting was opened.

New Business

Recommendation on a request for a special use permit to allow for an accessory dwelling unit at 7900 Adams Street – 15-51

Staff received a special use permit application on July 31, 2015 regarding the property at 7900 Adams Street. The permit was submitted by Joel Templeman, Lillis O'Malley Olson Manning Pose Templeman LLP, on behalf of Brit Baker, property owner at 7900 Adams Street. Mr. Baker has constructed a horse arena on his property which includes the arena area, stable area, and a small finished second story. Mr. Baker is requesting a special use permit to allow for the small finished second story to be used as an accessory living quarter.

The property is currently zoned A-r, Agricultural Reserve and is surrounded by similar A-R uses. Horse riding, training, husbandry and associate stables, facilities and grounds are all permitted in the A-R district. Additionally, Mr. Baker's annexation agreement specifically states the construction of a horse arena is allowed. An accessory living quarter is allowed in the A-R district through a special use permit.

Through the special use permit process, the Planning and Zoning Commission makes recommendations to the Board of Adjustment. A Board of Adjustment meeting and public hearing have been scheduled for Tuesday, August 11, 2015 at 6:00 p.m. Landowners within 200 feet of 7900 Adams Street were notified of the special use permit request.

Motion by Huse and seconded by Schulz to approve a recommendation on a request for a special use permit to allow for an accessory dwelling unit at 7900 Adams Street.
Approved 6-0.

Recommendation on a request for a special use permit to allow an accessory structure that exceeds 1,500 square feet at 555 Beardsley Street – 15-52

Staff received a special use permit application on July 31, 2015 regarding the property at 555 Beardsley Street. The permit was submitted by Duane Wittstock, property owner of that address. Mr. Wittstock is requesting a special use permit to allow for the construction of an accessory storage structure greater than 1,500 square feet and taller than 15 feet. Mr. Wittstock is proposing to build a structure that would not exceed 40' wide by 60' long by 18' high.

The property is currently zoned RE-1, Single Family Rural Estates District and is surrounded by similar RE-1 uses to the east and west, and A-R uses to the south.

Staff has included site plan showing the location of the accessory structure on the property, a zoning map showing the adjoining zoning, and a map showing nearby properties with similar structures.

This item will go before the Board of Adjustment at the meeting tomorrow night, August 11 at 6:00 p.m. Landowners within 200 feet have been notified of special use permit request.

Motion y by Huse and seconded by Schulz to approve a recommendation on a request for a special use permit to allow an accessory structure that exceeds 1,500 square feet at 555 Beardsley Street. Approved 6-0.

Continuance of Public Hearing and consideration of amendments to the City of Norwalk Zoning Ordinance with specific focus on child care homes and zoning districts

Mr. Wagoner reported on July 27, 2015 the Commission held a public hearing to cover the updated sections of the Zoning Ordinance including: accessory structures and fences; architectural standards; buffers; bulk regulations table; definitions; exceptions and modifications; home occupations; multi-family off street parking; non-conforming accessory structures; privately owned improvements; and zoning districts.

During the meeting, the Commission motioned that the public hearing be continued at the August 10 meeting to allow for additional comment and consideration on the following items: architectural standards; definitions; exceptions and modifications; home occupation; and zoning districts.

The Commission will have special focus on child care homes. Staff and Chris Shires, Confluence have been working on daycares and finding a way to bring them more in line with the state code. Our current code states less than seven children. Coincidentally the City received a complaint about a daycare and how many kids they had in their care along with the noise. At that time staff decided not to enforce the current code, knowing it would be changing soon. We did not want to put any families out unnecessarily until a decision was made. The City has been working towards a compliance date that would coincide with the start of school. Mr. Wagoner stated that the real question is how many kids are appropriate to be in a daycare in a residential district. Staff looked around at other surrounding cities and put a chart together. Staff

feels that C-1 would be a good place to draw the line, which would allow more than what our current code allows.

Jill Larsen, 1027 Norwood Court and Cindy Gavin, 927 E 18th Street addressed the Commission with a power point presentation. Both ladies are C-2 providers in Norwalk.

There are 34 in home daycares in Norwalk which include 332 children in total. There are only 8 vacancies total in those daycares. They covered levels of in home childcare and how many children they are allowed to have through the state regulations.

Larsen and Gavin suggested the City provide a registration process of some sort that would include a database to allow families a place to research home providers and possibly provide some type of a communication system for all.

Riva suggested the City put a link on their website to the DHS website that lists all the providers in Norwalk. Larsen agreed this would be a good solution.

Larsen and Gavin also suggested that a provider packet be given to all providers when registering with the city, which would include a neighbor information sheet that these providers could fill out and hand out to all their neighbors.

Larsen and Gavin also recommended a mediation system of some sort through the city that gives all parties the chance to be heard and work together with a mediator of some sort on a compromise.

Lastly they asked that the four current C-2 providers in Norwalk be grandfathered in and not mandated to follow the new code put into place. Riva informed them that since they are not in compliance with our current code, they cannot be grandfathered into the new code.

Commission thanked them for their hard work and organized presentation.

Mary Ferden , 2532 Greenhills Drive, also the owner of Li'l Hands Big Dreams located at 810 and 812 North Ave. and 730 Main Street. Ferden started out as a home provider and went from an A provider, to a B and then a C. She did have 12 children in her home daycare with 2 full time teachers and she just ran out of room. At that time she moved to a center. They grew and expanded their first center into three properties. They are now able to house 115 children in their three centers. There is a real need for in home providers and Category C homes in Norwalk. If the Category C homes are not acceptable in Norwalk, then the City needs to make it easier for centers to open. She asked the Commission to please consider how necessary these programs are.

Susan Martin, 4798 Lakewood Drive, addressed the Commission. Martin is the next door neighbor to the Handy's who had the complaint lodged against them. She said they are nothing but accommodating to her and continually ask her if there are any problems. They are not loud or obnoxious and she has no problems with them at all.

Josh Hutchinson, 4648 Hyperion Drive spoke to the Commission in favor of C-2 centers and their ability to transport children to preschool or school. Nadja Hutchinson, 4648 Hyperion Drive also spoke at the same time. They are thankful for their C-2 provider and all they have done for their children. It is a place that feels like home with both of their kids being able to attend together. They feel the C-2 providers have gone above and beyond to get their designation.

Brad Wilson, 5661 Fairfax Street, informed the Commission that he has two children attending a C-2 daycare after having had a bad experience with a daycare. They were without childcare for a month because it is extremely difficult to find children care in Norwalk. C-2 providers are very important to him and his family. These providers do not just have an in home daycare, it's more like a preschool.

Dave Schervish, 8944 Old Orchard Drive, explained he is adjacent to the daycare that had the complaints. He understands the need for daycare and has two children in daycare himself. He just doesn't think this large of a center needs to be in someone else's backyard. The outside noise goes all days long. There needs to be common ground and he suggests not allowing more than seven children in a home daycare. He realizes there is a need in Norwalk. He would like to have peace of mind when he comes home from work but is not able to with the noise that comes from his neighbor's daycare. They are not even able to use their backyard any longer.

Marianne Hellums, 702 Center Street informed the Commission that if she does not have access to a C-2 provider she will be forced to take her kids into Des Moines, West Des Moines or Johnston, even during the winter months when it would be dangerous to have them on the roads.

Dejah Perkey, 8922 Old Orchard Drive explained that she is Handy's neighbor. Perkey has a Category B daycare out of her home. She ran a C-2 daycare in Clive. Perkey does not feel the providers get that much training and that part of the 12 hours of training they are required to obtain, 6 of that is CPR and mandatory training. Perkey said the State requires providers to check local ordinances and ask your City Clerk what the limitations and requirements are on in home providers. She said this is professionalism and good to be polite and courteous to your neighbors. Perkey has called and complained about C-2 providers in the past. She feels there are many times it doesn't appear there is adult supervision at the Handy daycare. They would not have purchased their home if they would have known what was next door to them but they looked at the house during non-daycare hours.

McKenna Graves, 1323 Parkhill Drive addressed the Commission that her daycare closed in June and left her without any daycare. She has a child now with very special needs due to this situation. The centers in Des Moines are too expensive. We have willing providers here in Norwalk and this is their livelihoods doing what they love and helping parent out. Why would the City even consider shutting these services down in Norwalk?

Lori Brookheart-Schervish, 8944 Old Orchard Drive spoke regarding the number of kids is what is in question. She went on to say it doesn't matter what size the daycare is, regulations must be in place. She would like to see privacy fences, a noise and nuisance

procedure, and channels for people to go with complaints. She said as the Handy daycare grew, the problem grew. Schervish contacted the LVA and begged for a resolution to no avail. She also called the police and lodged a complaint about the noise. She feels there needs to be another solution for these problems and asks for any recommendations the Commission has to set some regulations in place for daycare providers to run their business and the homeowners show surround this business.

Riva asked how these situations are handled currently. Mr. Wagoner said we handle most of it through the nuisance process.

Heidi Bunne, 4460 Oakcreek Drive stated she has lived next door to a C-2 provider for four years and has never had a complaint.

Jesse Graber, 2899 Park Place explained that her boys attend the Handy daycare. She has been there many times unannounced and the children are not outside sun up to sun down. They have a neat playground and there is not trash all over the place. Her boys bond and she feels they learn a lot at the Handy's.

Lisa Carlson, 1828 Swan Circle, wanted to clarify that the CPR and mandatory training that these providers attend does not count towards their 12 hours...it is above and beyond the 12 hours.

David Sherlock, 2710 Lexington Drive informed the Commission that this is the first time he has heard about the complaints. He feels the two sides are not talking and that rules were not followed. The oversight mechanism that is currently in place was not enforced if it was even taken. Rules and regulations are only valid if enforced. Sherlock feels the fair way to handle this would be a grievance mechanism of some sort that would keep all parties communicating. The vast majority of in home daycares are quality and this just got out of hand.

Commission discussed the maximum numbers that each category of care could have at one time. Schulz asked Wagoner if it would be a possibility to have an extended time period to enforce any new regulations on daycares so families were able to find new daycare? Mr. Wagoner explained it will be on the council Agenda on September 3rd and the fastest timeline for compliance would be thirty days.

Mr. Dougherty added that the Commission and Council are charged with equal rules across the board. This regulation needs to comply to the City in general and not based on a complaint. This was a topic that was already being looked at for change, it just happened that the complaint came during the period the City was in the process of making these changes.

Riva asked Wagoner if it would be possible for the City to allow Category A, B and C-1 providers with C-2 providers using the special permit process and then requiring items such as a privacy fence. Fraser noted that some areas in town do not allow privacy fences due to their covenants.

Schulz asked if a special use permit is something that is permanent and runs with the land, or if it is possible to have an expiration dates of sorts or can it be taken away? Schulz also asked what the application fee is for a special use permit. Dougherty explained that the recommendation can entail generalities but the Board of Adjustment could consider the proximity of neighbors and fencing and such. Wagoner noted the special use permit fee is \$100.

Dave Schervish, 8944 Old Orchard Drive informed Commission that residents are allowed to have an eight foot privacy fence. Fraser added that the current recommendation for change is six feet, so that will probably be changing.

Kim Driscoll, 728 Sycamore Drive, stated she is very confused. She is a level A provider in Norwalk. Is the City looking at setting new regulations for daycare providers? Riva answered that the regulations are what will be allowed in Norwalk. Driscoll feels that whatever is done needs to be done across the board, including the centers in Norwalk. They are also in residential areas like churches and even houses. She has a center across the street from her at Fellowship Community Church.

Commission discussed using a special permit process to take care of the issue. This would allow both sides to have a voice before a permit was issued.

Dave Schervish, 8944 Old Orchard Drive explained this is allowing a business to move into a neighborhood so the simple solution would be to have the neighbors sign off on it.

Riva asked Commissioners if they were ok with allowed A, B and C-1 providers with C-2 being special use permit and Mr. Shires will help with the language for the special use permit.

Mr. Shires reviewed the remaining items being considered for amendment making notes of Commission members' comments and changes they desire. The changes will be made and will present a final copy to the Commission at the next scheduled meeting.

Public hearing was closed at 8:20 p.m.

Staff Development Update

Mr. Wagoner thanked Kyle Jackson and Jim Dougherty for attending the meeting.

Mr. Wagoner noted to the Commission that at the last meeting the Commission approved recommendation to the City Council for the Kruse rezoning to be changed from 80' lots to 100' lots. The applicant did not want to move forward with this recommendation and decided to go to Council with the original proposal and no recommendation from the Commission. Then applicant pulled it from the agenda prior to the meeting and has now planned a meeting with the neighbors to get their input and come up with a new plan.

Mr. Wagoner updated the Commission on the Council meeting that was held on August 6. Commercial parking lots were brought up and whether or not we inspect them. Isley said her driveway had to be inspected so she thought a parking lot should have to be

also. After checking with the Building Inspector, Mr. Wagoner found out that parking lots do not have to be inspected or permitted. They are part of the site plan process and the requirements are directed through that. They must be dust free and of a hard surface, certain number of parking stalls decided by the patron area in the business. Building inspections are for more of a life safety issue. Approaches are what are inspected, whether they are commercial or residential, to make sure they meet our standards. Huse commented that the City would be taking on quite a liability if they inspected parking lots. The engineers that design them are the ones who are stamping their seal of approval on them and the City should not have to worry about that.

Riva informed Wagoner that Isley was asking about the permitting process and whether commercial businesses have to take out a permit for a parking lot. Mr. Wagoner answered that is built into the cost of the site plan process.

Mr. Wagoner reported that the Council discussed Wright Road and the connection in the Orchard Hills area. A piece of Orchard Hills Drive will not be connected to Wright Road with the Happe development area since Happe does not own that piece of land. Therefore staff has met with the developer and the developer's engineer and will have that connection on there when they do the rest of the street. The street is the only thing required there, not infrastructure, which helps with the cost of the project taking it down to about \$100 per linear foot. Mr. Dougherty gave Commission some history on the area and noted that this area was originally taken care of with a RISE Grant, but this 150 foot area was missed.

Mr. Wagoner reported that the Holland PUD discussion at the Council meeting did not go very well. The language in the agreement made the broker feel the project would be unbankable and he would not be able to transact on the property. The project would be marketed as single family homes and no possibility of being able to rent out those properties. Broker did not feel he could market this. Staff will continue to work through this.

Mr. Wagoner informed Commission that there is an Economic Development meeting scheduled for August 11 to work with Mike Coppola finishing up the details for the Elizabeth Holland Park where we will do three detention areas.

Staff will continue working on putting better maps together showing more of the surrounding areas and giving more detail to help Commission and Council.

Mr. Wagoner said the staff will continue to strive through this very busy time. We are struggling right now and have been hit with a lot of projects at one time. It is very busy but we will put forth our best efforts to have a better end product. Staff has given developers an earlier cut off time for submitting their projects to get onto the agendas which in turn helps us to get information out in a more timely manner to the Commission. The developers are not happy about this, but hopefully it will work itself out and smooth out.

Mr. Wagoner reported that Council approved entering into an agreement with MidAmerican Energy to change over all the street lights to LED lights.

City Council approved Warrior Run so that plat will be recorded and moving forward.

Mr. Jackson addressed the Commission and apologized for not coming to the previous meetings although he is the Council liaison. He is moving his work schedule around so he will be able to attend more of the meetings as he feels it is important to bridge the gap between the two groups.

Future Business Items

Legacy Plat 19

Staff has met with Hubbell and discussed that Legacy 18 wasn't ready to go. They discussed the weir and will be placing the item on the City Council agenda at the 8-20 meeting. A decision will be made on the weir so that the Council can move on to The Legacy Plat 18 at the September 3rd meeting.

LaQuercia Variance

Staff reported that we are struggling to find industrial ground. Carey Hock and LaQuercia are two local businesses that would like to expand and we are having issues finding places for them. Due to the curve in Hakes Drive, LaQuercia was having a hard time meeting setbacks and expanding their building. The Board of Adjustment was able to help him with a variance to keep an existing business in Norwalk.

1425 Misty Lane Variance Request

This item will be going before the Board of Adjustment tomorrow night. This lot was platted with an 80' build line and the rest of the plat has a 50' build line. Staff will take this through the variance process and hopefully bring it in line with the other homes in the area.

SubArea 1 Master Plan RFP

Bob Olson and Confluence will be working on this. Right now we have one piece of ground that is holding us up on this project. This ground is in the running for a data center and we are waiting to find out. We will wait a little longer to see if a decision is made on this project. If we are no longer comfortable waiting, we will discuss if that is even the right spot for that. Once this is all decided, the group will be pulled together to begin this process.

Rolling Green Plat 5

Coming soon.

Comprehensive Plan Amendment for Trail Map

This should be on an agenda in the near future.

Adjournment – 15-53

Motion by Fraser and seconded by Ross to adjourn the meeting at 8:42 P.M. Approved 6-0.

Stephanie Riva, Chairperson

Wade Wagoner, Planning & Economic
Development Director